



March 22, 2000

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portlas, TW-A-325
445 12th Street, S.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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Re: WT Docket No. 99-168
DA 00-559
Report No. AUC-00-33-A

Dear Ms. Salas:

This letter is being filed on behalf of Motorola, Inc. Today Motorola is filing the attached Comments in the above referenced proceeding.

Please contact me regarding any questions at (202) 371-6899 concerning this matter.

Sincerely,

Mary E. Brooner
Director
Telecommunications Strategy and Regulation

Cc: Tom Sugrue
Mark Bollinger
Kathleen O'Brien Ham
Louis Sigalos
Brett Tarnutzer

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Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	
Service Rules for the 746-764 and 776-794)	WT Docket No. 99-168
MHz Bands, and Revisions to Part 27 of the)	
Commission's Rules)	
)	
Auction of Licenses For The 700 MHz)	DA 00-559
Guard Bands Scheduled for June 14, 2000)	Report No. AUC-00-33-A

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF MOTOROLA, INC.

Motorola, Inc. ("Motorola"), hereby responds to the Wireless Telecommunications Bureau's ("Bureau") request for comments on proposed auction rules for the 700 MHz Guard Band spectrum.¹ Motorola generally agrees with the Commission's proposed procedures for this auction. However, Motorola respectfully submits that the Bureau's proposed upfront payment and minimum opening bid amounts have failed to adequately account for the presence of the incumbent broadcast stations, the possibility of interference from adjacent commercial licensees, and the barrier to entry these amounts present for small businesses and associations likely to be interested in the role of Guard Band Manager. Motorola urges the Bureau to modify the upfront payment and minimum opening bids as detailed in these comments to better reflect the practical realities surrounding the Guard Band licenses.

¹ See Public Notice, *Auction of Licenses for the 700 MHz Guard Bands Scheduled for June 14, 2000*, DA 00-559 (rel. March 10, 2000) ("Auction Public Notice").

DISCUSSION

The Bureau's *Auction Public Notice* set aggregate upfront payments for the Guard Band licenses at a value of \$5,419,800 for the 2 MHz A Block and \$10,838,500 for the 4 MHz B Block.² Additionally, the Bureau set aggregate minimum opening bids for these licenses at a value of \$16,248,500 for Block A and \$32,506,200 for Block B.³ Other than noting that the Bureau has a Congressional estimate of the value of the spectrum, the methodology for arriving at these values was not further elaborated. Moreover, the Commission did not explain the valuation expected for the Guard Band licenses as compared to the amount anticipated to be raised by the 30 MHz of additional 700 MHz licenses. Therefore, it is unclear what specific value the Bureau has placed on the Guard Band spectrum as apart from the general Congressional estimate for the entire 60 MHz of spectrum between 746 and 806 MHz.

Regardless of this valuation, Motorola believes that the current amounts for upfront payments and minimum opening bids are extremely high given the level of incumbency and restrictions required of licensees in this band. Initially, existing broadcasting licensees on TV Channels 59-68 are permitted to continue operations until at least December 31, 2006, and television interests are already suggesting that even this date is a "soft target."⁴ In the meantime, the Commission has required these co-channel and adjacent channel TV stations to be fully protected by any Guard Band licensees.⁵

² See *Auction Public Notice* at 12.

³ *Id.*

⁴ See Petition for Partial Reconsideration Submitted by the National Association of Broadcasters, WT Docket No. 99-168, filed Feb. 22, 2000 at 6.

⁵ See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Second Report and Order*,

Although all MEAs are not adversely affected by TV incumbency, in those markets where it is an issue, a Guard Band Manager may not recognize any return on its license investment until December of 2006. Any money invested in licenses for those encumbered markets will be tied up without a full corresponding revenue stream (i.e., interest or lease fees) for a period of almost six years. A prospective bidder must weigh this issue in reaching a value for participating and becoming a Guard Band Manager. In fact, given the high number of risks associated with this investment, a potential bidder could choose simply to invest its money elsewhere to receive immediate returns. At the very least, the Bureau must consider this factor in all MEAs which face co-channel or adjacent channel TV incumbency issues (which are also among the highest in population) in establishing upfront payment and minimum opening bids.

In addition, the Guard Band spectrum also faces potential interference from users of the remaining 30 MHz of commercial spectrum at 700 MHz in all markets. Dependent upon the use of this adjacent spectrum, Guard Band Managers face the possibility of mitigating interference effects from these neighboring licensees. Furthermore, given the new June 7 start date for the 30 MHz auction,⁶ prospective Guard Band Managers are unlikely to be in a position to assess the nature of adjacent commercial operations prior to bidding. All these interference factors must also be seriously considered in establishing upfront payment and minimum opening bid levels.

Furthermore, the Guard Band Manager auction presents a unique opportunity for the Bureau to encourage participation by small businesses in coordinating efficient and

FCC 00-90 (rel. March 9, 2000) at ¶ 112.

⁶ See Public Notice, 747-762 and 777-792 MHz Band Auction Postponed Until

effective management of the spectrum. The Bureau should make every effort to enable competition between a variety of entities to perform this novel Guard Band Manager function. However, the small business and private land mobile frequency coordinators that have the most experience in activities similar to the envisioned Guard Band Manager function are effectively precluded from participation at the current values for upfront payments.

To encourage small business participation in auctions, the bidding credits are applied to gross bids in the competitive bidding process.⁷ Unfortunately, these bidding credits are not applied to upfront payment amounts, creating a barrier to entry for these small entities that have an extremely short period of time to raise money for participation in the Guard Band auction. Due to the Congressional requirement to have all funds deposited in the U.S. Treasury by September 30, 2000, the Commission is constrained to these tight timeframes for the auction process. To alleviate this problem, the Bureau can adjust its upfront payment and minimum opening bid amounts to better ensure an equitable playing field for all potential auction participants and to encourage small business participation in this auction.

In view of these constraining factors, Motorola believes that the Bureau should modify the values for upfront payments and minimum opening bids to better align them with more realistic values for the Guard Band spectrum licenses. In fact, the Commission has valuation information at its disposal where similar uses of spectrum were envisioned. In the 220 MHz auction, licensees were also expected to provide non-cellular

June 7, 2000, DA 00-573, (rel. March 17, 2000).

⁷ See 47 C.F.R. §§ 1.2110(e)(2)(ii), 1.2110(e)(2)(iii).

architecture, two-way radio services. However, the Bureau determined that minimum opening bids for the 220 MHz spectrum should be determined by the following formula:

$$\text{EAG Licenses:} \quad \$0.0125 \times 0.15 \text{ MHz} \times \text{License Population}^8$$

The 220 MHz licenses were for larger EAG areas, but by using the factor of population the Commission essentially equalized that issue regardless of license area. Motorola requests that the Bureau consider using similar formulas for minimum opening bids for the Guard Band auction:

$$\text{Block A Licenses:} \quad \$0.0125 \times 2 \text{ MHz} \times \text{License Population}$$

$$\text{Block B Licenses:} \quad \$0.0125 \times 4 \text{ MHz} \times \text{License Population}$$

Use of these formulas renders a much more reasonable and acceptable valuation for aggregate minimum opening bids of \$6,317,743 for Block A and \$12,630,486 for Block B. Additionally, Motorola urges the Bureau to maintain the ratio it proposed between minimum opening bids and upfront payments of 33 percent. In other words, the upfront payments for the Guard Band auction would be:

$$\text{Block A Licenses:} \quad 0.333 \times \text{Minimum Opening Bid for Block A}$$

$$\text{Block B Licenses:} \quad 0.333 \times \text{Minimum Opening Bid for Block B}$$

This would result in upfront payments of \$2,108,178 for Block A and \$4,209,287 for Block B, which are more in line with the substantial limitations placed on the Guard Band licenses.

⁸ See "Phase II 220 MHz Service Spectrum Auction, Notice and Filing Requirements for Auction of Phase II 220 MHz Service Spectrum Scheduled for June 8, 1999; Minimum Opening Bids and Other Procedural Issues (Report No. AUC-99-24-B)," *Public Notice*, DA 99-474 (released March 8, 1999).

Given that the 220 MHz licenses were not encumbered with television operations like the 746 MHz licenses, these formulas should be considered as absolute upper limits for upfront payments and minimum opening bids, even for markets which are not encumbered by co-channel and adjacent channel television. Markets that are encumbered should be subject to a further reduction in upfront payments and minimum opening bids to account for the longer payback period licensees will face.

Motorola asks that the Bureau consider modification of upfront payments and minimum opening bids in accordance with the 220 MHz valuations, with further reductions in markets encumbered by co-channel and adjacent channel television stations. With such a change, more entities that are likely to desire to bid will be in a position to do so. Moreover, a lowering of these values will provide better assurance that the Guard Band licenses will be sold, in keeping with the Commission's goals to provide spectrum to the public at a reasonable price in an expeditious manner.

CONCLUSION

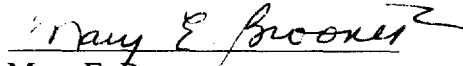
Motorola applauds the Commission's efforts to protect public safety licensees and provide for an orderly licensing process for Guard Band Managers. However, all spectrum is not equal, and acquiring this spectrum in particular carries many risks and necessary limitations on its use. Therefore, Motorola urges the Bureau to reconsider the values placed on upfront payments and minimum opening bids for the Guard Bands in order to fully account for the restrictions inherent in the licenses for this spectrum and provide greater entry opportunities for small businesses, including frequency coordinators who have the expertise to fulfill the role of Band Managers.

Respectfully submitted,

MOTOROLA, INC.

A handwritten signature in dark ink, appearing to read "Richard C. Barth", written over a horizontal line.

Richard C. Barth, Ph.D.
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A handwritten signature in dark ink, appearing to read "Mary E. Brooner", written over a horizontal line.

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